

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

LELAND E. WEGENER, JR.,

Petitioner,

v.

Criminal No. 03-20029

Civil No. 05-10028

Honorable David M. Lawson

UNITED STATES OF AMERICA,

Respondent.

**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND
RECOMMENDATION AND DENYING MOTION TO VACATE SENTENCE**

Presently before the Court is the report issued on October 7, 2005 by Magistrate Judge Charles E. Binder pursuant to 28 U.S.C. § 636(b)(1)(B) recommending that this Court deny the petitioner's motion to vacate his sentence. Although the magistrate judge's report explicitly stated that the parties to this action may object to and seek review of the recommendation within ten days of service of the report, no objections have been filed. The parties' failure to file objections to the Report and Recommendation waives any further right to appeal. *Smith v. Detroit Federation of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the Magistrate Judge's report releases the Court from its duty to independently review the motion. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). However, the Court agrees with the findings and conclusions of the Magistrate Judge.

Accordingly, it is **ORDERED** that the Magistrate Judge's Report and Recommendation [dkt

39] is **ADOPTED**, and the petitioner's motion to vacate [dkt # 24] is **DENIED**.

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: October 27, 2005

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on October 27, 2005.

s/Tracy A. Jacobs
TRACY A. JACOBS